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REMARKS

The Examiner has rejected claim 29 under 35 U.S.C. 102(b) over WO 99/14408. Applicants respectfully urge that this ground of rejection should be withdrawn.

Applicant would like to notify the Examiner that reference WO 99/14408 is commonly owned and related to the present application. Each of WO 99/14408 and the present application sharing the same sole inventor, Charles Edward Bowers. The Examiner is also notified that the United States patent equivalent to WO 99/14408 is issued U.S. patent 6,682,618 to Bowers.

The presently claimed invention relates to the manufacture of Saxony carpet. More particularly, the invention relates to a method for making Saxony carpet using *untwisted wrapped singles yarns*. As discussed in the present application, on page 4, lines 1-3, the current invention is an improvement over the inventions disclosed in WO 99/14408 and patent application serial number 08/933,822, now U.S. patent 6,682,618, commonly owned. Applicants respectfully urge that the present invention is patentably distinct from the inventions of these documents.

In order to support a 35 U.S.C. 102 rejection, the Examiner is obliged to show each and every element of the claimed invention in a single reference. It is submitted that the Examiner has failed to satisfy this obligation in applying WO 99/14408. The cited reference fails to teach *untwisted wrapped singles yarns* comprising a base synthetic fiber wrapper yarn containing heat activated binder material. It should be noted that a key feature of the present invention is that such yarns are *untwisted*. In contrast, WO '408 relates to *twist set* yarns, and a process for forming such yarns with heat-activated binders which melt during twist setting process conditions. The Examiner asserts that while the WO '408 patent teaches the use of twisted heat-treated yarns, such twisting is not required, and therefore it can be implied that this reference teaches the untwisted yarns of

the present invention. It is respectfully urged that the Examiner is impermissibly reconstructing the art in light of Applicants' disclosure. The issue is not whether the invention of WO '408 *could* be processed into an untwisted yarn, but rather, whether WO '408 *actually teaches* such an untwisted yarn. The cited reference makes no such disclosure. WO 99/14408 teaches a generic wrapped yarn where a heat activated binder material is incorporated in a wrapper yarn. Their yarn is then twist set under high temperatures in standard twisting processes. The fibers of WO 99/14408 are taught to retain good properties after being subjected to common high temperature *twist setting procedures*. The Examiner is directed to page 4, lines 11-21 of WO 99/14408 which discusses the utility of the reference for such twist setting procedures, whereby the use of a heat-activated binder having a lower melting point compared to a base fiber offers an improved response to twist setting, resulting in improved properties. The Examiner is further directed to page 6, lines 1-20, which describes the twist setting conditions, e.g. the Suessen twist setting process, that WO 99/14408 employs.

A careful reading of WO 99/14408, including a word search fails to even mention or imply untwisted yarns. WO 99/14408 is 180 °C contrary to the instant invention because WO 99/14408 requires twisted yarns and the instant invention requires untwisted yarns per claim element (c). Since the present invention relates to the formation of Saxony carpet using untwisted wrapped singles yarns that are not twist set, it is urged that the carpet of the claimed invention and a carpet formed according to the WO 99/14408 reference have significant structural differences.

The examiner points to page 3, lines 10-31 and claims 1, 14 and 15 for the proposition that WO 99/14408 may employ untwisted yarns because twist is not discussed at these portions of the patent. This is insufficient to form an anticipation rejection. In order to anticipate, the employed reference must affirmatively teach the point in question. The examiner cannot merely look at a void in the reference and then attempt to fill that void with arguments that the invention could theoretically fit there. The examiner is called upon to point to the specific line and page numbers of the reference where an untwisted

yarn is specifically and affirmatively mentioned. Otherwise a rejection under 35 U.S.C. 102 is legally impermissible. For all of the above reasons, it is respectfully urged that the presently claimed invention is patentably distinct from WO 99/14408, and the 35 U.S.C. 102 rejection should be withdrawn.

The Examiner next rejects claims 29-48 under 35 U.S.C. 103(a) over WO 99/14408 in view of JP 2300340. The Examiner asserts that WO '408 teaches each feature of the presently claimed invention except for the incorporation of a heat-treated yarn into the carpet primary backing as loops. The Examiner thus cites JP 2300340 to fill this void. It is respectfully submitted that this rejection is not well taken.

The arguments with regard to WO 99/14408 are repeated from above and apply equally herein. Applicants urge that WO '408 fails to teach several features of the present claims, and that even upon a combining with JP 2300340, the presently claimed invention would fail to be obviated. WO 99/14408 teaches a generic wrapped yarn where a heat activated binder material is incorporated in a wrapper yarn. Their yarn is then *twist set* under high temperatures in standard twisting processes. The fibers of WO 99/14408 are taught to retain good properties after being subjected to common high temperature *twist setting procedures*. The present invention teaches *untwisted* wrapped singles yarns which comprise a base synthetic fiber wrapper yarn containing heat activated binder material. A key feature of the present invention is that such yarns are *untwisted*. These yarns of the present invention exhibit greater texture retention, tip definition, bulk and wear resistance than those taught by WO 99/14408. Further, the present invention allows for the elimination of the slow and expensive steps of twisting, plying and re-twisting of a singles yarn previously necessary for the formation of Saxony carpets. Such is not taught by WO '408.

Regarding JP 2300340, this reference relates to a multi-ply yarn including a sliver 1 and a filament 2 that are aligned in parallel, without twisting, to form a conjugate yarn which is incorporated into a carpet backing in the form of loops. The Examiner asserts that it

would have been obvious for one skilled in the art to combine the twist-free loops as taught by JP 2300340 with the heat-treated-yarn formation process of WO '408. Applicants strongly disagree. There is *nothing* in either cited reference which shows that such a combination would or could be successful. JP 2300340 does not teach or suggest heat treating as taught by WO '408. Furthermore, WO '408 does not teach untwisted fibers. When selective combination of prior art references is needed to make an invention seem obvious, there must be something in the art to suggest that particular combination other than hindsight gleaned from the invention itself, something to suggest the desirability of the combination. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 5 U.S.P.Q.2d 1434, 1438 (CAFC 1988). This teaching or suggestion is absent in the selected combination of references. Thus, it is urged that one skilled in the art would not have been inspired to combine the teachings of WO 99/14408 with those of JP2300340 to arrive at the present invention.

Furthermore, it is urged that even upon such a hypothetical combination, the present claims would fail to be obviated. It is again urged that these references do not teach or suggest the combination as set forth in the claims, as is evident from the differences between applicant's invention and the cited art. As such, it is respectfully submitted that neither of the cited references WO 99/14408 and JP2300340, either alone or in combination, teach or suggest the claimed invention. For these reasons, it is respectfully submitted that the 35 U.S.C. 103 rejection should be withdrawn.

The Examiner has rejected claims 29-36 and 43-48 under 35 U.S.C. 103(a) over JP 2300340 in view of WO 99/14408. It is respectfully submitted that the rejection is not well taken. The arguments regarding both WO 99/14408 and JP 2300340 are repeated from above herein.

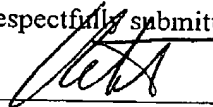
The Examiner agrees that JP 2300340 fails to teach several features of the present claims. However, the Examiner urges that it would have been obvious incorporate the use of a heat activated binder fiber into JP 2300340's structure since such is taught by WO '408.

Applicants respectfully disagree, and urge that the Examiner is impermissibly reconstructing the art in light of Applicants' disclosure. An invention cannot be deemed unpatentable merely because, in a hindsight attempt to reconstruct the invention, one can find elements of it in the art; it must be shown that the invention as a whole was obvious at the time the invention was made without knowledge of the claimed invention. No such showing has been made by the examiner.

As stated above, it is urged JP 2300340 does not teach or suggest heat treating as taught by WO '408. Furthermore, WO '408 does not teach untwisted fibers as required by JP2300340. Applicants submit that there is simply nothing in either of WO 99/14408 or JP 2300340 that would inspire one of ordinary skill in the art to combine these two references in an effort to formulate the present invention. Furthermore, there is *nothing* in either cited reference which shows that such a combination would or could be successful. For all of the above reasons, Applicants respectfully urge that the 35 U.S.C. 103 rejection should be withdrawn.

The undersigned respectfully requests re-examination of this application and believes it is now in condition for allowance. Such action is requested. If the examiner believes there is any matter which prevents allowance of the present application, it is requested that the undersigned be contacted to arrange for an interview which may expedite prosecution.

Respectfully submitted,


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I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office (FAX No. 571-273-8300) on October 20, 2005.


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